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10/611,698	06/30/2003	Hemingway Huynh	111255-135502	4440

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SCHWABE, WILLIAMSON & WYATT, P.C.  
PACWEST CENTER, SUITE 1900  
1211 SW FIFTH AVENUE  
PORTLAND, OR 97204

EXAMINER
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WON, MICHAEL YOUNG

ART UNIT	PAPER NUMBER
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2155

MAIL DATE	DELIVERY MODE
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10/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/611,698	<b>Applicant(s)</b> HUYNH ET AL.	
	<b>Examiner</b> Michael Y. Won	<b>Art Unit</b> 2155	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 34 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 34 and 40-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment filed August 21, 2007.
2. Claims 1, 6, and 34 have been amended.
3. Claims 1-10, 34, and 40-43 have been examined and are pending with this action.
4. Claims 1, 6, and 34 previously rejected under 35 U.S.C. 112, first paragraph, has been withdrawn
5. Claims 1, 6, and 34 previously rejected under 35 U.S.C. 112, second paragraph, has been withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10, 34, and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sahai et al. (US 6,594,699) in view of Dunning et al. (US 7,024,485).

**INDEPENDENT:**

As per **claim 1**, Sahai teaches an article comprising:

a storage medium (see col.8, line 37: "stored on the server"); and

instructions stored in the storage medium which when executed by a processor (see col.2, line 47: "server computer/processor 10" and col.8, lines 48-50: "computer program executing on said server"), cause the processor to generate and transmit one or more messages to a receiving computer system (see col.2, lines 61-64: "responds to the transfer request by streaming the data over the network to the client"), the one or more messages including:

logic for testing digital content capabilities of the receiving computer system (see col.3, lines 15-19: "check whether client that has accessed the server has a client capabilities files stored" and col.5, lines 7-14: "capabilities... are then determined") when the link is dereferenced (see col.5, lines 1-4: "(URL) associated with the streamable multimedia asset desired"); and

logic for displaying a selected one of a plurality of versions of digital content selected based on the results of testing digital content capabilities of the receiving computer system (see col.2, lines 8-11: "adapts the media format to the client capabilities"), such that the receiving computer system may display the selected version of the digital content in the media message as a second layer of the adaptive media message (see col.2, lines 16-18: "to optimize playback of the asset to the client based on the client capabilities and user specifications or preferences").

Sahai does not explicitly teach a media message to be displayed on the receiving computer system as a first layer of an adaptive media message, the media message including a link.

Dunning teaches a media message to be displayed on the receiving computer system as a first layer of an adaptive media message (see col.2, lines 52-56: "the first section is playable at a relatively low quality level"), the media message including a link (see col.1, lines 36-40: "click on a link").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Sahai in view of Dunning so that a media message to be displayed on the receiving computer system as a first layer of an adaptive media message, the media message including a link. One would be motivated to do so because Dunning teaches that such implementation allows user to quickly access files even though they have slow communication channels (see col.7, lines 16-18).

As per **claim 6**, Sahai teaches a method in a computing system for presenting an adaptive message (see col.5, lines 41-45: "formatting the data and adapting it"), comprising:

receiving a message in the computing system including a link (see col.2, lines 59-60: "The locator indicates the multimedia data to be streamed or transferred" and col.5, lines 1-4: "(URL) associated with the streamable multimedia asset desired"); and

based on the contents of the received message:

testing, when the link is dereferenced (see col.5, lines 1-4: "(URL) associated with the streamable multimedia asset desired"), two or more digital content capabilities of the computing system (see col.3, lines 15-19: "check whether client that has accessed the server has a client capabilities files stored" and col.5, lines 7-14: "capabilities... are then determined");

selecting one of a plurality of different digital content elements based upon the results of the testing (see col.2, lines 16-18: "to optimize playback of the asset to the client based on the client capabilities and user specifications or preferences"); and

presenting the selected one of the plurality of different digital content elements within the message as a second layer of the adaptive media message (see col.2, lines 8-11: "adapts the media format to the client capabilities").

Sahai does not explicitly teach displaying the message as a first layer of an adaptive media message.

Dunning teaches displaying the message as a first layer of an adaptive media message (see col.2, lines 52-56: "the first section is playable at a relatively low quality level").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Sahai in view of Dunning by implementing displaying the message as a first layer of an adaptive media message. One would be motivated to do so because Dunning teaches that such implementation allows user to

quickly access files even though they have slow communication channels (see col.7, lines 16-18).

As per **claim 34**, Sahai teaches an article comprising:

a storage medium (see col.8, line 37: "stored on the server"); and

instructions stored in the storage medium which when executed by a processor (see col.2, line 47: "server computer/processor 10" and col.8, lines 48-50: "computer program executing on said server"), cause the processor to generate and transmit one or more messages to a receiving computer system (see col.2, lines 61-64: "responds to the transfer request by streaming the data over the network to the client"), the one or more messages including:

logic for testing capabilities of the receiving computer system (see col.3, lines 15-19: "check whether client that has accessed the server has a client capabilities files stored" and col.5, lines 7-14: "capabilities... are then determined") when the link is dereferenced (see col.5, lines 1-4: "(URL) associated with the streamable multimedia asset desired"); and

logic for displaying a selected one of a plurality of versions of media content selected based on the results of testing capabilities of the receiving computer system (see col.2, lines 8-11: "adapts the media format to the client capabilities"), such that the receiving computer system may display the selected one of the plurality of versions of the media content in the media message as a second layer of the adaptive media

message (see col.2, lines 16-18: "to optimize playback of the asset to the client based on the client capabilities and user specifications or preferences").

Sahai does not explicitly teach a media message to be displayed on the receiving computer system as a first layer of an adaptive media message, the media message including a link.

Dunning teaches a media message to be displayed on the receiving computer system as a first layer of an adaptive media message (see col.2, lines 52-56: "the first section is playable at a relatively low quality level"), the media message including a link (see col.1, lines 36-40: "click on a link").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Sahai in view of Dunning so that a media message to be displayed on the receiving computer system as a first layer of an adaptive media message, the media message including a link. One would be motivated to do so because Dunning teaches that such implementation allows user to quickly access files even though they have slow communication channels (see col.7, lines 16-18).

**DEPENDENT:**

As per **claim 2**, which depends on claim 1, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the logic is directly contained in the one or more messages (see col.6, lines 60-63).



As per **claim 3**, which depends on claim 1, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the logic is included in the one or more messages by reference (see col.8, lines 45-47).

As per **claim 4**, which depends on claim 1, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the selected one of the plurality of versions of the digital content is not directly included in the media message as first transmitted to the receiving computer system, but is separately transferred under the control of the logic for displaying (see col.3, lines 15-19).

As per **claim 5**, which depends on claim 1, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the selected one of the plurality of versions of the digital content is downloaded by the logic for displaying, and is downloaded in a form customized for an addressee of the message (see col.5, lines 41-46).

As per **claim 7**, which depends on claim 6, Sahai further teaches wherein the plurality of different digital content elements includes a high-quality video sequence and a low-quality video sequence (see col.4, lines 25-27).

As per **claim 8**, which depends on claim 6, Sahai further teaches wherein the plurality of different digital content elements includes a video sequence and an animation sequence (implicit: see col.3, lines 57-60 and col.4, lines 25-27).

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As per **claim 9**, which depends on claim 6, Sahai further teaches wherein the plurality of different digital content elements includes a first digital content element constructed for playing on a first player and a second digital content element constructed for playing on a second player different from the first player (implicit: see col.3, lines 34-40).

As per **claim 10**, which depends on claim 6, Sahai further teaches wherein the selected one of the different digital content elements is selected based upon actions of a user of the computer system in connection with the received message (see col.2, lines 16-18 and col.3, lines 46-49).

As per **claim 40**, which depend on claim 1, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the logic for testing digital content capabilities of the receiving computer system includes a script to be executed by the receiving computer system to test said digital content capabilities (see col.5, lines 26-31).

As per **claim 41**, which depend on claim 34, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the logic for testing and the logic for displaying are appended to the media message (see col.2, lines 26-28).

As per **claim 42**, which depend on claim 34, Sahai does not explicitly teach wherein the instructions, when executed by the processor, generate the one or more messages such that the media message further includes: a replaceable section to be

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replaced by a replacing section including the selected one of the plurality of versions of media content.

Dunning teaches a replaceable section to be replaced by a replacing section including the selected one of the plurality of versions of media content (see col.10, lines 43-51: "the low quality version of track B 2834 is output in lieu of the higher quality version 2830 of Fig.4C. However, the higher quality version of track A 2832 can still be presented").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Sahai in view of Dunning by implementing a replaceable section to be replaced by a replacing section including the selected one of the plurality of versions of media content. One would be motivated to do so because Dunning teaches that such implementation allows user to quickly access files even though they have slow communication channels (see col.7, lines 16-18) and allows users to view higher quality versions as they become available at the client (see col.2, lines 60-61).

As per **claim 43**, which depend on claim 42, Sahai further teaches wherein the instructions, when executed by the processor, generate the one or more messages such that the logic for displaying includes a replace script (see col.5, lines 26-31) to replace the replaceable section of the media message with the replacing section (see claim 42 rejection above).

***Response to Arguments***

7. Applicant's arguments with respect to independent claims have been considered but are moot in view of the new ground(s) of rejection.

Specifically, the applicant(s) argue that Sahai teaches that a "server determines the capabilities of the client and transcodes a web page, requested by the client prior to the delivery to the client". This assertion is improper. Sahai teaches that the invention is not limited to the server determining the capabilities, but in fact can be obtained by a query, automatically sent with each request, or obtained by an application running on the client.

Although the examiner agrees that Sahai does deliver only one version of the content to be displayed on the client device, the newly cited prior art Dunning et al. (US 7,024,285) teaches the missing limitations with respect to independent claims 1, 6, and 34. Dunning teaches that files can be split into sections for transmission, combined and scaled to improve quality (see col.2, lines 52-61).

For the reason above, claims 1-10, 34, and 40-43 have been rejected and remain pending.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Won/

Primary Examiner

September 18, 2007